

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAVID CARMONA TOVAR,  
Plaintiff,

v.

FIELD OFFICE DIRECTOR, LOS  
ANGELES FIELD OFFICE, UNITED  
STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT, *et al.*,  
Defendants.

Case No. 5:24-cv-01535-FLA (SSCx)

**ORDER SETTING BRIEFING  
SCHEDULE ON PETITIONER'S  
REQUEST FOR TEMPORARY  
RESTRAINING ORDER [DKT. 9]**

**ORDER**

On July 22, 2024, Petitioner David Carmona Tovar (“Petitioner”) filed a combined Petition for Writ of Habeas Corpus (“Petition”) and request for a temporary restraining order. Dkt. 1. Petitioner states he is a legal permanent resident who is currently detained by United States Immigration and Customs Enforcement (“ICE”) at the Desert View Annex Detention Facility in Adelanto, California. *Id.* at 3–4. According to Petitioner, he was convicted of murder on September 26, 1991, and granted parole by the Board of Parole of California on December 22, 2022. *Id.* at 4.

On or about August 24, 2023, Petitioner was detained by ICE and has remained in ICE custody since that date. *Id.* at 5. On February 26, 2024, an Immigration Judge ordered Petitioner removed from the United States and denied his request to be released on bond. *Id.* Petitioner has appealed both decisions to the Board of Immigration Appeals. *Id.* On June 17, 2024, the Board of Immigration Appeals affirmed the denial of Petitioner’s appeal and finalized his removal order. *Id.* On June 28, 2024, the Board of Immigration Appeals denied Petitioner’s appeal of the bond decision as moot. *Id.* Petitioner appealed the Board of Immigration Appeals’ decision to the Ninth Circuit, and the case was assigned Case No. 24-3856.

On July 12, 2024, Petitioner filed a request to be released on bond with an unspecified court, alleging changed circumstances due to: “(1) appointed a bar panel attorney in the Superior Court of California, County of Los Angeles pursuant to a motion I filed pursuant to 1473.7, (2) filed a Petition for Review in the Ninth Circuit Court of Appeals which was accepted and opened as Case No. 24-3856 (3) continued participation in rehabilitative programming.” *Id.* (errors in original). On July 16, 2024, Petitioner’s bond request was denied. *Id.*

On July 26, 2024, the court struck Petitioner’s request for a temporary restraining order for failure to demonstrate notice to the opposing party or compliance with the procedural requirements to seek a temporary restraining order without notice. Dkt. 5.

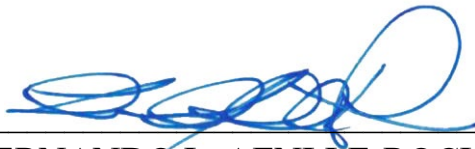
1 On August 6, 2024, Petitioner filed a renewed request for a temporary  
2 restraining order, requesting the court order his release from ICE custody. Dkt. 9.  
3 Petitioner argues the Immigration Court and Board of Immigration Appeals erred by  
4 denying his release on bond, because the government cannot prove he is currently a  
5 danger to the community. *Id.* at 2.

6 On August 15, 2024, Respondents filed an objection to Petitioner's request,  
7 requesting the court strike the request for failure to comply with the requirements of  
8 Local Rules 65-1 and 7-19, or the court's July 26, 2024 Order. Dkt. 11. Respondents  
9 request alternatively that the court set a deadline for them to respond substantively.  
10 *Id.* at 1–2.

11 As Petitioner is in *pro se*, the court will exercise its discretion to consider the  
12 request to be a motion for a preliminary injunction, rather than an *ex parte* application  
13 for a temporary restraining order. Respondents' deadline to respond substantively to  
14 the Motion shall be September 27, 2024. Petitioner's deadline to file a reply in  
15 support of the request shall October 18, 2024. The court will set the matter for  
16 hearing if the court deems a hearing appropriate or necessary.

17  
18 IT IS SO ORDERED.

19  
20 Dated: September 4, 2024

  
FERNANDO L. AENLLE-ROCHA  
United States District Judge